



State of Oregon Department of Environmental Quality

HB 2007 Retrofit Compliance Draft Proposed Rules

Rulemaking Advisory Committee Meeting #3

Note: These are all new rules so there are no changes to highlight.

Division 256 MOTOR VEHICLES

340-256-0500

Background

The 2019 Oregon Legislature passed House Bill 2007, codified in 2019 Oregon Laws Chapter 468. ORS 803.591 prohibits registering and titling older Medium- and Heavy-duty Trucks in Clackamas, Multnomah, and Washington counties after certain deadlines unless they are equipped with Approved Retrofit Technology.

ORS 468A.810 requires the Commission to adopt rules for certification of Approved Retrofit Technologies for Diesel Engines that power certain Medium- and Heavy-duty Trucks and to prescribe the manner for issuing a certification that such diesel engines have been retrofitted with Approved Retrofit Technology.

The rules are intended to accomplish those goals.

340-256-0010 (to be added to definitions in OAR 340-256-0010)

Definitions

- (1) “Approved Retrofit Technology” means on-road Diesel Particulate Matter pollution control system that meets the criteria established in OAR 340-256-0510.
- (2) “CARB” means California Air Resources Board.
- (3) “CCD” means the Commerce and Compliance Division of the Oregon Department of Transportation.
- (4) “Certificate of Approved Retrofit Compliance” means an electronic certification issued by the Department that attests that the Medium-or Heavy-duty Truck is equipped with Approved Retrofit Technology that complies with all applicable provisions in OAR 340-256-0510 through OAR 340-256-0560.
- (5) “Component Swapping” means moving components of an Approved Retrofit Technology from the Medium- or Heavy-duty Truck on which it was original installed to another Medium- or Heavy-duty Truck in compliance with OAR 340-256-0560.

- (6) “Diesel Engine” means a compression ignition engine.
- (7) “Diesel Particulate Matter” means the particles found in the exhaust of a Diesel Engine.
- (8) "EPA" means the United States Environmental Protection Agency.
- (9) “Heavy-duty Truck” means a Diesel Motor Vehicle, or combination of Diesel Motor Vehicles operated as a unit, that has or have a gross vehicle weight rating that is greater than 26,000 pounds.
- (10) “Medium-duty Truck” means a Diesel Motor Vehicle, or combination of Diesel Motor Vehicles operated as a unit, that has or have a gross vehicle weight rating that is greater than 14,000 pounds but less than or equal to 26,000 pounds.
- (11) “Periodic Verification Process” means the ongoing requirement to provide proof of Approved Retrofit Technology maintenance and operation to the Department to maintain the validity of a Certificate of Approved Retrofit Compliance.
- (12) “Re-Designation” means the complete removal of an Approved Retrofit Technology from the Medium- or Heavy-duty Truck on which it was original installed and the subsequent transfer of the Approved Retrofit Technology to another Medium- or Heavy-duty Truck within the person’s commonly owned fleet in compliance with OAR 340-256-0560.

Statutory Authority: ORS 468A.360, ORS 468A.810, & ORS 468.020.

Statutes Implemented: ORS 468A.350–ORS 468A.400, & ORS 468A.810.

340-256-0510

Requirements for Approved Retrofit Technology

To be an Approved Retrofit Technology, the retrofit technology must be:

- (1) New or used equipment that:
- (a) Was installed by an installer authorized by the Approved Retrofit Technology manufacturer;
 - (b) Was manufactured for installation on an on-road Diesel Engine and be compatible with a Medium- or Heavy-duty Truck;
 - (c) Has a valid manufacturer’s warranty;
 - (d) DEQ determines will provide a reduction of at least 85 percent of Diesel Particulate Matter; and
 - (e) Complies with the labeling requirements in OAR 340-256-0550.
- (2) If the Approved Retrofit Technology is used equipment, in addition to meeting all the requirements in subsection (1) above, the equipment must be installed in compliance with the requirements in OAR 340-256-0560.

Statutory Authority: ORS 468A.810 & ORS 468A.360.

Statutes Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0520

Certification of Approved Retrofit Compliance

(1) To obtain a Certificate of an Approved Retrofit Compliance, using a Department-approved application, a person must submit information sufficient to allow the Department to determine that the technology meets the requirements of OAR 340-256-0510 and that the technology is in good working order, including:

(a) A statement signed by the installer of the Approved Retrofit Technology attesting that, at the time of installation, the installer was authorized to perform the installation work by the manufacturer of the Approved Retrofit Technology;

(b) A statement signed by the person to whom the Medium- or Heavy-duty Truck shall be registered committing to and declaring the following:

(A) That, after the issuance of a Certificate of Approved Retrofit Compliance, the registrant will either ensure that the Approved Retrofit Technology remains operational, functioning efficiently or notify the Department immediately in writing that the Approved Retrofit Technology is functioning with decreased efficiency or effectiveness or is no longer operational and functioning;

(B) That the registrant will notify the Department immediately in writing if, after the issuance of a Certification of Approved Retrofit Compliance, the registrant becomes aware that changes occur such that the equipment no longer constitutes Approved Retrofit Technology;

(C) That the registrant will must engage in the Periodic Verification Process and Reapplication if and as required under OAR 340-256-0540;

(D) That the registrant will keep the records required to be submitted under OAR 340-256-0540 if the Department engages that person in the Periodic Verification Process; and

(E) That the registrant will not personally or allow anyone else to remove, modify, alter, or tamper with the Approved Retrofit Technology or any labels after the Department issues a Certificate of Approved Retrofit Compliance;

(c) A pre-installation compatibility assessment as prescribed by the Approved Retrofit Technology manufacturer, signed by the installer;

(d) A completed warranty registration form for the Approved Retrofit Technology;

(e) Information that demonstrates that the technology meets the requirement in OAR 340-256-0510(d). This may be:

(A) A Verification Letter issued by EPA showing that the retrofit technology was listed on the Verified Technologies List for Clean Diesel of EPA as of the effective date of this rule. The letter shall describe the engine families and operating criteria appropriate for the application of the retrofit technology and shall state that the retrofit technology will result in a reduction of Diesel Particulate Matter of at least 85 percent;

(B) An Executive Order issued by the CARB showing that the retrofit technology was listed on the Currently Verified Diesel Emission Control Strategy of the CARB as of the effective date of this rule. The Executive Order shall describe the engine families and operating criteria appropriate for the installation and use of the retrofit technology and shall state that the technology results in a reduction of Diesel Particulate Matter of at least 85 percent; or

(C) Substantially equivalent information to that required under paragraphs (A) or (B) based on retrofit technology listed on either the Currently Verified Diesel Emission Control Strategy of CARB or the Verified Technologies List for Clean Diesel of EPA after the effective date of this rule that would allow the Department to determine that the retrofit technology meets the requirements in OAR 340-256-0510(d);

(g) Information sufficient to allow the Department to determine that the Approved Retrofit Technology complies with labeling requirements in OAR 340-256-0550, including, but not limited to, a copy of the label; and

(h) Any additional information requested by the Department.

(2) If the Approved Retrofit Technology is used equipment, in addition to the information in subsection (1) above, the registrant must submit:

(a) A copy of the Department's prior approval for the used equipment installation issued under OAR 340-256-0560; and

(b) Information sufficient to allow the Department to determine that the used equipment was installed in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020).

(3) Each submission of information provided on (1)(a)(b) (c) and (d) above must include all of the following information about the Medium-duty Truck or Heavy-duty Truck upon which the Approved Retrofit Technology was installed:

(a) Model Year;

(b) Vehicle Identification Number;

(c) Vehicle Make;

(d) License Plate Number;

(e) Gross Vehicle Weight Rating;

(f) Engine Manufacture;

(g) Engine Model Year;

(h) Engine Family Number; and

(i) Engine Displacement.

(4) All application documentation, reports, statements, declarations and any other documents submitted to DEQ by a registrant or Approved Retrofit Technology installer in accordance with

OAR 340-256-0520(1) (2) and (3), OAR 340-256-0540(1) and (2) and OAR 340-256-0560(3) must contain true, accurate and complete information.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0530

Issuance of a Certification of Approved Retrofit Compliance

(1) The Department shall review all applications under OAR 340-256-0520 for completeness, to determine whether the technology constitutes Approved Retrofit Technology, and to determine if a Certificate of Retrofit Compliance should be issued.

(2) Based on its review in subsection (1) of this rule, the Department shall either issue a Certificate of Approved Retrofit Compliance or deny the request for a Certificate of Approved Retrofit Compliance. The Department's decision to deny the request shall state the reason(s) for the denial. A final decision issued under this subsection (2) shall be a contested case order issued in accordance with ORS Chapter 183.

(3) The Department shall submit to the Department of Motor Vehicles a Certificate of Approved Retrofit Compliance for Medium-duty Trucks and to CCD for Heavy-duty Trucks under ORS 468.810, if the Department issues such a certificate under subsection (2) of this rule.

(4) Once issued, a Certificate of Approved Retrofit Compliance shall remain valid for the Medium- or Heavy-duty Truck to which it was issued until either:

(a) The technology no longer constitutes Approved Retrofit Technology; or

(b) The Department issues a final order revoking the Certification of Approved Retrofit Compliance.

(5) Once issued a Certificate of Approved Retrofit Compliance, the registrant of the Medium or Heavy-duty Truck must comply with all of the commitments and declarations in OAR 345-256-0520(b)(A through E).

(6) Once issued a Certificate of Approved Retrofit Compliance, the registrant of the Medium or Heavy-duty truck must keep and maintain all Approved Retrofit Technology filter cleaning, temperature, back pressure and maintenance (warranty and other than warranty repairs) for a minimum period of 24 months.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360 & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0540

Periodic Verification Process and Reapplication

(1) In order to maintain a Certificate of Approved Retrofit Compliance, the person to whom the vehicle is registered must:

(a) Annually, or prior to each and every renewal year of the Medium-or Heavy-duty Truck for which the Certificate of Retrofit Compliance is issued, submit, using a Department-approved application, the following information:

(A) A supplementary certification signature from an installer, authorized by the Approved Retrofit Technology manufacturer, or an Approved Retrofit Technology manufacturer designated representative, stating that the installer or manufacturer conducted a visual and other inspection of the Approved Retrofit Technology and that it conforms to the manufacturer's specifications of function and is not operating with decreased efficiency or effectiveness; and

(B) The results of an opacity test in accordance with the test procedures in Title 13, California Code of Regulations, Section 2193(d) (2020) showing a maximum smoke opacity standard not to exceed 5% for any heavy-duty vehicle equipped Approved Retrofit technology, regardless of its diesel engine model year; and

(b) Participate in the Periodic Verification Process upon a request from the Department. The Department may conduct its Periodic Verification Process as a result of a random audit of a Certificate of Approved Retrofit Compliance or as a result of individualized suspicion regarding whether the Certificate of Approved Retrofit Compliance remains valid or should not have initially been issued.

(2) Upon a request to engage in the Periodic Verification Process, the person to whom a vehicle is registered must submit the following within 60 calendar days:

(a) A completed, Department approved periodic verification application form attesting to the truth and accuracy of information provided as part of the Periodic Verification Process;

(b) Approved Retrofit Technology temperature and backpressure records for the past 24 months;

(c) Approved Retrofit Technology filter cleaning and maintenance records matching the labeling requirements contained in OAR 340-256-0550 for the past 24 months, if any such cleaning or maintained was done during that period;

(d) Approved Retrofit Technology warranty repair for the past 24 months, if any such repair was done during that period;

(e) Approved Retrofit Technology repair other than warranty repair for the past 24 months, if any such repair was done during that period;

(f) The business address of and a signature from an installer, authorized by the Approved Retrofit Technology manufacturer, or an Approved Retrofit Technology manufacturer designated representative, attesting to the truth of the periodic verification information provided in paragraphs (b) through (e), as applicable;

(g) Any additional information and access to the Medium-or Heavy-duty Truck for inspection, if requested by the Department. Vehicle access may be required at registrant or installers place of business, or other mutually agreed location and would be for the purpose of visually verifying the installation and required ongoing operation of the Approved Retrofit Technology.

(3) As part of the Periodic Verification Process, the Department may accept information required by subsection (2) paragraphs (a) through (f) from the certified retrofit installer, a retrofit manufacture representative, or from the vehicle registrant as long as it meets the requirements of in subsection (2) paragraphs (a) through (e) of this rule.

(4) The Department shall review information submitted under subsection (2) for completeness and to determine whether the Approved Retrofit Technology has maintained the characteristics that made it eligible for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530 at the time the Certificate of Approved Retrofit Compliance was issued. At the conclusion of its review, the Department shall issue a final order concluding either that the Certificate of Approved Retrofit Compliance remains valid or that the Certificate of Approved Retrofit Compliance shall be revoked. An order determining that the Certificate of Approved Retrofit Compliance shall be revoked shall include the reason(s) for the decision, and the revocation shall go into effect either after the order becomes final by default or final contested case order issued in accordance with ORS Chapter 183.

(5) The Department may also issue an order determining that the Certificate of Approved Retrofit Compliance shall be revoked if a person fails to comply with the requirements in subsection (1) paragraph (a). An order determining that a Certificate of Approved Retrofit Compliance shall be revoked shall include the reason(s) for the decision, and the revocation shall go into effect either after the order becomes final by default or by final contested case order issued in accordance with ORS Chapter 183.

(6) If the Department revokes the Certificate of Approved Retrofit Compliance for a Medium- or Heavy- duty Truck under subsections (4) or (5) and a person wishes to obtain a new Certification of Retrofit Compliance, the person may:

(a) Install new or used retrofit technology that meets the requirements of OAR 340-256-0510 and apply for a Certificate of Approved Retrofit Compliance under OAR 340-256-0530; or

(b) Correct the problems that led the Department to revoke the Certificate of Approved Retrofit Compliance and reapply for a Certificate of Approved Retrofit Compliance using the process outlined in subsection (7), if this is the first time that the person has had their Certificate of Approved Retrofit Compliance revoked.

(7) To reapply for a Certificate of Approved Retrofit Compliance, a person shall submit to the Department:

(a) An explanation of why the Certificate of Approved Retrofit Compliance was revoked, and what the person to whom the vehicle is registered will to do to prevent the same problem from reoccurring;

(b) Documentation sufficient to allow the Department to conclude that the problems that led the Department to revoke the Certificate of Retrofit Compliance have been corrected;

(c) Documentation sufficient to allow the Department to conclude that retrofit technology has the characteristics that made it eligible for a Certificate of Approved Retrofit Compliance under

OAR 340-256-0530 at the time the Certificate of Approved Retrofit Compliance was issued. This must include, but is not limited to, documentation sufficient to show that the technology met the requirement in OAR 340-256-0510(d). If the Approved Retrofit Technology was used at the time of installation, this must include, but is not limited to, a copy of the Department's prior approval for the installation issued under OAR 340-256-0650 and information sufficient to allow the Department to determine that the installation was accomplished in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020); and

(d) A statement signed by the person to whom the Medium- or Heavy-duty Truck shall be registered committing to and declaring the following:

(A) That the registrant notify the Department in writing if, after the issuance of a Certificate of Approved Retrofit Compliance, he or she becomes aware that changes occur such that the equipment no longer constitutes Approved Retrofit Technology;

(B) That the registrant must engage in the Periodic Verification Process and Reapplication if required under OAR 340-256-0540;

(C) That the registrant must keep the records that shall be required to be submitted under OAR 340-256-0540 if the Department engages that person in the Periodic Verification Process; and

(D) That the registrant must not personally or allow anyone else to remove, modify, alter, or tamper with the Approved Retrofit Technology or any labels after the Department issues a Certificate of Approved Retrofit Compliance.

(8) Upon receipt and review of the documentation in subsection (7), the Department may, but is not required to, reissue the Certificate of Retrofit Compliance if it determines that the reapplication was complete and the problems that led it to revoke the Certification of Retrofit Compliance have been corrected. A final decision issued under this subsection (8) shall be a final order in a contested case issued in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0550

Approved Retrofit Technology labeling requirements

(1) The registrant of each Medium-duty or Heavy-duty Truck containing Approved Retrofit Technology must ensure each Medium- or Heavy-duty Truck contains a legible and durable label that complies with subsection (3) of this rule affixed to a conspicuous location on the engine or engine compartment and affixed to the Approved Retrofit Technology so that it can be easily read with the naked eye during daylight with or without the assistance of artificial lighting or reflective devices.

(2) No person may remove, modify, alter, or tamper with a label in any way after it is installed.

(3) At a minimum, the label shall include the following:

- (a) A unique identification number to be matched to the specific Approved Retrofit Technology family name;
- (b) The Approved Retrofit Technology's manufacture name, address, and phone number;
- (c) The Approved Retrofit Technology's serial number;
- (d) The month and year the Approved Retrofit Technology was manufactured;
- (e) The direction of the exhaust flow in the Approved Retrofit Technology; and
- (f) The Approved Retrofit Technology's family name assigned by the installer of Approved Retrofit Technology in the following format: CA or US/MMM/YYYY/BART#/APP/XXXXX, where:

(A) CA designates a retrofit device that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB or that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB and that appears or previously appeared Verified Technologies List for Clean Diesel of EPA;

(B) US designates a retrofit device that appears or previously appeared Verified Technologies List for Clean Diesel of EPA and that does not appear or has not previously appeared the Currently Verified Diesel Emission Control Strategy of CARB;

(C) MMM designates and is to be replaced by the manufacturer code. For a retrofit device that appears or previously appeared on the Currently Verified Diesel Emission Control Strategy of CARB, MMM shall be replaced by the manufacturer code assigned by CARB's Executive Officer;

(D) MMM shall be replaced by three zeroes (000) for a retrofit device that appears or previously appeared Verified Technologies List for Clean Diesel of EPA; and

(E) YYYY designates and is to be replaced by the year of verification.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360 & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

340-256-0560

Component Swapping or Re-Designation of Approved Retrofit Technology

(1) Any person conducting Component Swapping or Re-Designation must do so in compliance with Title 13, California Code of Regulations, Section 2706(i) (2020).

(2) A person may complete Component Swapping or Re-Designation only with prior Department approval.

(3) To seek prior Department approval for Component Swapping or Re-Designation, a person shall submit:

(a) A Department approved application for approval of Component Swapping or Re-Designation; and

(b) All documentation associated with the Component Swapping or Re-Designation under Title 13, California Code of Regulations, Section 2706(i) (2020) sufficient to allow the Department to determine that the Component Swapping or Re-Designation would comply with those provisions.

(4) The Department shall review all applications under subsection (3) for completeness and to determine whether the Component Swapping or Re-Designation would comply with Title 13, California Code of Regulations, Section 2706(i) (2020).

(5) The Department's decision to deny the request for approval shall result in a denial of the approval and shall include the reason(s) for the denial. A final decision issued under this subsection (5) shall be a final order in a contested case issued in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 468A.810, ORS 468A.360, & ORS 468.020.

Statutes/Other Implemented: ORS 468A.810 & ORS 468A.350–468A.400.

-END-